

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION

ARKANSAS METHODIST HOSPITAL
CORPORATION d/b/a/ Arkansas
Methodist Medical Center,

Plaintiff,

vs.

CRAIG W. FORBES, M.D.,

Defendant.

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No. 3:04CV00362 SWW

ARKANSAS METHODIST HOSPITAL
CORPORATION d/b/a/ Arkansas
Methodist Medical Center,

Plaintiff,

vs.

EUGENE M. FINAN, M.D.,

Defendant.

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No. 3:04CV00363 SWW

ORDER

Before the Court are plaintiffs' motions in limine to which defendants have responded. Upon careful review, the motions are denied.

Plaintiffs note that in the Memorandum Opinion and Order denying plaintiffs' motions for summary judgment, the Court found that defendants' counterclaims for fraudulent inducement were based principally on two alleged representations by Ron Rooney: (1) that Dr. Smith would be leaving and (2) that the percentage of Medicaid OB/GYN patients was traditionally very low but had been increasing due to Smith's problems and reputation. Plaintiffs now ask the Court to determine what alleged representations should be the subject of this lawsuit in order to assist them in properly

preparing for trial and drafting jury instructions. Specifically, they ask the Court not to allow defendants “to ‘remember’ other fraudulent statements during trial and not make up or present new allegations ‘on the fly’ as the trial progresses.” Pl’s. Brs. in Supp. Mot. in Limine at 4. In addition, plaintiffs move the Court to order defendants to replead their counterclaims to “accurately reflect the Court’s Memorandum and Order.” *Id.* at 7.

In ruling on the motions for summary judgment, the Court addressed other alleged misrepresentations that form the basis of defendants’ affirmative defense and counterclaim. Plaintiffs are aware of that testimony and familiar with the documentary evidence upon which defendants intend to argue their case. The Court does not intend to restrict the evidence to the two principle misrepresentations; the evidence is interrelated. Nor will the Court order defendants to replead their counterclaims.

IT IS THEREFORE ORDERED that plaintiffs’ motions in limine¹ are hereby denied.

DATED this 3rd day of November 2005.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE

¹Docket entry 34 in Case No. 3:04cv362SWW and docket entry 37 in Case No. 3:04cv363SWW.